

## Exhibit B

Eric S. Olson (11939)  
Lena Daggs (13666)  
**EISENBERG CUTT KENDELL & OLSON**  
215 South State Street, Suite 900  
Salt Lake City, Utah 84111  
(801) 366-9100  
(801) 350-0065 – Facsimile  
Email: [eolson@eckolaw.com](mailto:eolson@eckolaw.com)  
Email: [ldaggs@eckolaw.com](mailto:ldaggs@eckolaw.com)  
*Attorneys for Claimants*

SERVED 11/20 RELATION 2:15  
DATE 11/20 TIME 2:15  
NO. 16  
WASATCH ATTORNEY SERVICES #P100877  
124 W. 1400 SO. #7  
SALT LAKE CITY, UT 84116  
800-970-8220

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**IN THE FOURTH JUDICIAL DISTRICT  
UTAH COUNTY, PROVO DIVISION, STATE OF UTAH**

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MAX TANNER MCARTHUR,

Plaintiffs,

vs.

MUTUAL OF ENUMCLAW INSURANCE  
COMPANY,

Defendant.

**SUMMONS**

Case No.: 200401668  
Judge: Darold McDade

THE STATE OF UTAH TO THE BELOW NAMED DEFENDANT,

**Mutual of Enumclaw Insurance Company  
c/o CT Corporation System – Registered Agent  
1108 E. South Union Avenue  
Midvale, UT 84047**

You are hereby summoned and required to file an answer in writing to the attached Complaint with the Clerk of the above-entitled Court at 125 North 100 West, Provo, Utah, and to serve upon or mail to Eisenberg, Gilchrist & Cutt, Plaintiffs' attorney, 900 Parkside Tower, 215 South State Street, Salt Lake City, UT 84111, a copy of said answer within 21 days after service of this Summons upon you.

If you fail to do so, judgment by default will be taken against you for the relief demanded in said Complaint, which has been filed with the Clerk of said Court and a copy of which is hereby annexed and herewith served upon you.

DATED this 20th day of November, 2020.

**EISENBERG CUTT KENDELL & OLSON**

/s/ Eric S. Olson  
Eric S. Olson  
Lena Daggs  
Attorneys for Plaintiffs

Eric S. Olson (11939)  
Lena Daggs (13666)  
**EISENBERG CUTT KENDELL & OLSON**  
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*Attorneys for Claimants*

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**IN THE FOURTH JUDICIAL DISTRICT  
UTAH COUNTY, PROVO DIVISION, STATE OF UTAH**

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MAX TANNER MCARTHUR,

Plaintiffs,

vs.

MUTUAL OF ENUMCLAW INSURANCE  
COMPANY,

Defendant.

**COMPLAINT AND JURY DEMAND  
(Tier three)**

Case No.: 200401668  
Judge: Darold McDade

Plaintiff, by and through counsel of record, hereby complains of Defendant and alleges as follows:

**PARTIES AND JURISDICTION**

1. Plaintiff Max McArthur is, and at all relevant times has been, an individual residing in Utah County, State of Utah.
2. Defendant is a company who does business in the State of Utah and issued the subject insurance policy in Utah County, State of Utah.
3. All events giving rise to this Complaint occurred in Utah County, Utah.
4. This court has jurisdiction over this action pursuant to Utah Code Ann. §

78A-5-102.

5. Venue is proper in this Court pursuant to the subject insurance policy, which provides that venue shall be in the county where the plaintiff resides.

#### **GENERAL ALLEGATIONS**

6. Plaintiff was covered by a policy of automobile insurance (the "Policy") issued by Defendant.
7. The Policy provided Plaintiff with underinsured motorist benefits.
8. On 4/10/17, Bryan Flores (hereinafter "the underinsured driver") was driving a Silver Chevrolet Malibu with the Utah license plate number C778KK.
9. The underinsured driver was headed northbound and turning left into a business complex off of State Street and 1100 N. in Orem, Utah.
10. The underinsured driver failed to yield and turned left in front of Plaintiff's vehicle, which was heading southbound.
11. The front of Plaintiff's vehicle collided with the underinsured driver's vehicle at high impact.
12. Both vehicles had to be towed from the scene.
13. The underinsured driver was cited for failure to yield.
14. Plaintiff was taken by ambulance to Timpanogos Regional Hospital with injuries.
15. Plaintiff continued to experience injuries following the Collision, and obtained additional medical treatment from several providers.
16. As a direct and proximate result of the Collision, Plaintiff has incurred, and will continue to incur, economic damages including, without limitation, reasonable and

necessary past and future medical expenses, lost earnings, loss of earning capacity, loss of household services and other economic damages as the evidence may show at trial.

17. As a direct and proximate result of the Collision, Plaintiff has suffered, and will continue to suffer, noneconomic damages in the form of pain and suffering, including but not limited to, head, back, and neck pain, pain and suffering, impairment, and other damages as the evidence may show at trial.
18. The underinsured driver was insured under a policy of automobile insurance with liability coverage limits of \$100,000.
19. The underinsured driver's insurer paid the policy limits.
20. The value of Plaintiff's claim far exceeds the \$100,000 limits of coverage provided by the underinsured driver's insurance carrier. Thus, the underinsured driver is underinsured with respect to Plaintiff's claims.
21. Plaintiff issued a claim to Defendant for underinsured motorist benefits under the Policy.
22. Defendant failed to pay the underinsured motorist benefits to which Plaintiff is entitled under the policy.

**FIRST CLAIM FOR RELIEF**

(Breach of Contract)

23. Plaintiff incorporates herein all preceding paragraphs.
24. Defendant breached the Policy by failing to pay the underinsured motorist benefits to which Plaintiff is entitled under the Policy.

25. Defendant's breach caused damages to Plaintiff, including without limitation, the lack of underinsured motorist benefits.

**SECOND CLAIM FOR RELIEF**

(Breach of Contract)

26. Plaintiff incorporates herein all preceding paragraphs.
27. A controversy exists between the parties as to the amount of money owed by Defendant under the policy.
28. A declaratory judgment should be entered as to the amount of damages owed by Defendant based on the findings of a jury.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff seeks judgment against Defendant as follows:

- a. For past and future economic losses in an amount to be proven at trial;
- b. For non-economic losses in an amount to be proven at trial;
- c. For incidental and consequential damages in an amount to be proven at trial;
- d. For costs of suit, pre- and post-judgment interest, and attorneys' fees as provided by law; and
- e. For such further relief as the court deems just and proper.

**TIER DESIGNATION**

Pursuant to Utah Rules of Civil Procedure 8(a) and 26(c)(3), this matter falls under Tier 3 and should be permitted discovery pursuant to Tier 3.

**JURY DEMAND**

Plaintiff hereby requests a trial by jury on all issues that may be tried to a jury.

DATED this 20<sup>th</sup> day of November, 2020.

**EISENBERG CUTT KENDELL & OLSON**

/s/ Eric S. Olson  
Eric S. Olson  
Lena Daggs  
Attorneys for Plaintiffs



**TO:** Athan Shinas  
Mutual Of Enumclaw Insurance Company  
1460 WELLS ST  
ENUMCLAW, WA 98022-3098

**RE:** **Process Served in Utah**

**FOR:** MUTUAL OF ENUMCLAW INSURANCE COMPANY (Domestic State: OR)

**Service of Process  
Transmittal**

11/20/2020  
CT Log Number 538629448

**ENCLOSED ARE COPIES OF LEGAL PROCESS RECEIVED BY THE STATUTORY AGENT OF THE ABOVE COMPANY AS FOLLOWS:**

**TITLE OF ACTION:** MAX TANNER MCARTHUR, Pltf. vs. MUTUAL OF ENUMCLAW INSURANCE COMPANY, Dft.

**DOCUMENT(S) SERVED:** -

**COURT/AGENCY:** None Specified  
Case # 200401668

**NATURE OF ACTION:** Insurance Litigation

**ON WHOM PROCESS WAS SERVED:** C T Corporation System, Midvale, UT

**DATE AND HOUR OF SERVICE:** By Process Server on 11/20/2020 at 15:11

**JURISDICTION SERVED :** Utah

**APPEARANCE OR ANSWER DUE:** None Specified

**ATTORNEY(S) / SENDER(S):** None Specified

**ACTION ITEMS:** CT has retained the current log, Retain Date: 11/20/2020, Expected Purge Date:  
11/25/2020  
  
Image SOP  
  
Email Notification, Athan Shinas ashinas@mutualofenumclaw.com  
  
Email Notification, Celeste Holmes cholmes@mutualofenumclaw.com

**SIGNED:**  
**ADDRESS:** C T Corporation System  
208 LaSalle Ave  
Suite 814  
Chicago, IL 60604

**For Questions:** 866-539-8692  
CorporationTeam@wolterskluwer.com